

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-06-28,801

In re: 3636 16<sup>th</sup> Street, N.W., Unit A-1161

Ward One (1)

**NELL R. LANEY**  
Tenant/Appellant

v.

**WOODNER APARTMENTS**  
Housing Provider/Appellee

**ORDER ON MOTION FOR LEAVE TO FILE  
BRIEF OUT OF TIME**

**February 29, 2008**

**YOUNG, CHAIRPERSON.** The decision and order involved in this appeal, Laney v. Woodner Apartments, RH-TP-06-28,801 (OAH Oct. 30, 2007), was issued by the Office of Administrative Hearings on October 30, 2007. The housing provider filed a timely notice of appeal on November 19, 2007. The Commission scheduled its appellate hearing for March 6, 2008. On February 12, 2008, counsel for the tenant filed a Consent Motion for Leave to Late File Appellant's Brief. Pursuant to 14 DCMR § 3802.7 (2004) the appellant was required to file a brief within five (5) days of receipt of notification that the record in the matter had been certified to the Commission.

In the February 12, 2008, motion counsel for the tenant/appellant stated he had been unable to complete the brief due to other obligations and the short time frame between receipt of the scheduling order, January 30, 2008 and the due date of the brief, February 11, 2008. He further stated that counsel for the Appellee consented to February 15, 2008, as the continued date for the brief of the appellant. Pursuant to 14 DCMR §

3815.2 (2004), the tenant showed good cause for enlarging the time to file the brief. The tenant also met the requirement in 14 DCMR § 3815.1 (2004), to file the request to enlarge the time to file the brief “at least five (5) days before the hearing.”

### **THE COMMISSION’S ORDER**

The Commission’s rules provide: “Parties may file briefs in support of their position within five (5) days of receipt of notification that the record in the matter has been certified,” 14 DCMR § 3802.7 (2004). In addition:

Any party may move to request a continuance of any scheduled hearing or for extension of time to file a pleading, other than a notice of appeal, or leave to amend a pleading if the motion is served on opposing parties and the Commission at least five (5) days before the hearing or the due date; however, in the event of extraordinary circumstances, the time limit may be shortened by the Commission.

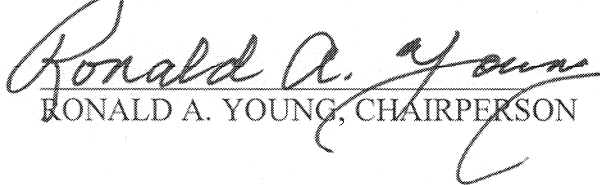
14 DCMR § 3815.1 (2004). Motions shall set forth good cause for the relief requested. 14 DCMR § 3815.2 (2004).

The Court’s decision in Metropolitan Baptist Church v. District of Columbia Dep’t of Consumer and Regulatory Affairs, 718 A.2d 119 (D.C. 1998), states the factors for consideration for a continuance are: 1) the reasons for the continuance (or extension of time, as in this case), 2) the prejudice resulting from the denial, 3) the party’s diligence in seeking relief, 4) any lack of good faith, 5) and prejudice to the opposing party, citing Daley v. United States, 739 A.2d 814 (D.C. 1999), cited in Redman v. Graham, TP 24,681 (RHC Jan. 6, 2003), Nezhadessivandi v. Ayers, TP 25,091 (RHC May 28, 2002).

In the instant case, the Commission concludes that counsel for the tenant, a student attorney with the D.C. Law Students in Court Program acted diligently to prepare a brief and file the instant motion.

Therefore, counsel was diligent in seeking an extension of time, the record does not indicate a lack of good faith. Additionally, the Commission concludes that allowing the tenant to late file the brief will not delay or prejudice the housing provider in any manner. Thus, this case is analogous to Nezhadessivandi v. Ayers, TP 25,091 (RHC May 28, 2002), in which this Commission held that pursuant to 14 DCMR § 3802.7 (2004)<sup>1</sup> the filing of a brief is subject to the Commission's discretion. Therefore, in conformity with the Commission's analysis in Nezhadessivandi, this Commission concludes that the motion to extend the time to file the brief is granted and the brief is accepted as filed.

SO ORDERED.

  
RONALD A. YOUNG, CHAIRPERSON

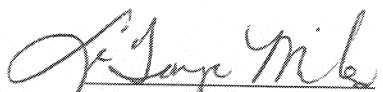
#### CERTIFICATE OF SERVICE

I certify that a copy of the **ORDER ON CONSENT MOTION FOR LEAVE TO LATE FILE APPELLANT'S BRIEF** in RH-TP-06-28,801 was served by priority mail, with delivery confirmation, postage prepaid, this 29<sup>th</sup> day of **February, 2008**, to:

John W. Heck, Student Attorney  
Ann Marie Hay, Esquire  
D.C. Law Students in Court  
806 7<sup>th</sup> Street, N.W.  
Washington, D.C. 20001

Roger Luchs, Esquire  
Greenstein, DeLorme and Luchs P.C.  
1620 L Street, N.W.  
Suite 900  
Washington, D.C. 20036

<sup>1</sup> The applicable regulation, 14 DCMR § 3802.7(2004) states, "parties may file briefs in support of their position [sic] within five (5) days of receipt of notification that the record in the matter has been certified." (emphasis added.)



LaTonya Miles

Contact Representative

(202) 442-8949